



Detained children and young people with SEN

The Special Educational Needs and Disability (Detained Persons) Regulations which came into force on 1 April 2015 place new duties on a detained child or young person's local authority.

The regulations apply to children and young people aged 18 and under who have been sentenced or remanded by the courts to a Young Offender Institution (YOI), a Secure Training Centre (STC) or a Secure Children's Home (SCH) in England. They do not apply to children and young people serving their sentence in the community or to those detained in a YOI for 18-21 year olds or those detained in the adult estate.

Under the 'Detained Persons' regulations:

- Local Authorities (LAs) must not cease an EHC plan when you or your child enters custody. Instead they must keep it while you or your child is detained and they must maintain and review it when you or your child is released
- If a you or your child has an EHC plan before being detained (or if one is completed while you or your child is in secure accommodation), the home LA must arrange appropriate special educational provision for you or your child whilst in detention
- If the EHC plan for you or your child specifies health care provision the health service commissioner for the custodial establishment must arrange appropriate health care provision for the purposes of the EHC plan.

You can appeal to the First-tier Tribunal (SEND) during the period of youth detention about:

- a decision by the LA not to secure an EHC needs assessment
- a decision by the LA not to secure an EHC plan following an assessment
- the school or other institution or type of school or other institution specified in the plan as appropriate for you or your child on release from custody or that no school or institution is specified.

Two new appeal forms have been developed for use in relation to detained persons. These are forms SEND 28 (for use by the parent of a child) and form SEND 28A (for use by a young person).

Unless your appeal is only about the school or other institution or type of school or other institution specified in EHC plan for you or your child on release from custody (or that no school or institution is specified) then you must obtain information about mediation in respect of the issues in the appeal and obtain a mediation certificate from the mediation information provider before your appeal can be registered.

If you enter into mediation and your mediation certificate is dated after the end of the two month window for making your appeal, then you can make your appeal within one month of the date of the mediation certificate.

In the appeal form, please set out the details of the issues in the appeal and provide as much detail as possible about the changes that you are seeking to the plan.

The custodial institution will make the necessary arrangements to ensure that you or your child is able to attend the hearing which may, if the Tribunal considers it appropriate, take place by way of video link.